



INDIANA UTILITY REGULATORY COMMISSION
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FILED

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INDIANA UTILITY
REGULATORY COMMISSION
CAUSE NO. 42912

IN THE MATTER OF METROPOLITAN)
TELECOMMUNICATIONS OF INDIANA,)
INC.'S VERIFIED PETITION FOR)
PROTECTION OF CONFIDENTIAL AND)
PROPRIETARY INFORMATION IN ITS)
DESCRIPTION OF ITS CREDIT)
FACILITY TRANSACTION)

You are hereby notified that on this date the Presiding Officer in this Cause makes the following Entry:

On September 9, 2005, Metropolitan Telecommunications of Indiana, Inc. ("Petitioner") filed its *Verified Petition* with the Indiana Utility Regulatory Commission ("Commission") seeking a determination that certain financial information to be filed in support of its *Verified Notice of Change in Its Certificate of Territorial Authority to Resell Bundled Local Exchange Services within the State of Indiana* ("Notice") is confidential and subject to treatment as a nondisclosable public record pursuant to Ind. Code 8-1-2-29 and 5-14-3-4, and 170 IAC 1-1.1-4.

The Notice is a Commission, fill-in-the-blank form identified as State Form 50739 and is available on the Commission's web site. Completed Notices are to be filed with the Commission. Petitioner's reason for filing the Notice relates to entering into a credit facility. The Notice requests financial information relevant to entering into a credit facility.

Commission rule 170 IAC 1-1.1-4(b) provides that a written application for a finding of confidentiality shall be accompanied by the sworn statement or testimony of a party that describes:

- (1) The nature of the confidential information.
- (2) The reasons why the information should be treated as confidential pursuant to IC 8-1-2-29 and IC 5-14-3.
- (3) The efforts the party has made to maintain the confidentiality of the information.

Petitioner's *Verified Petition*, which apparently serves as both its written application and sworn statement for purposes of 170 IAC 1-1.1-4(a) and 4(b), contains information that satisfies the elements found in 170 IAC 1-1.1-4(b)(1) and 4(b)(2). In

addition to describing the nature of the claimed confidential information as financial information relevant to its credit facility transaction, Petitioner included a copy of a document titled *Description of Transaction* with the claimed confidential financial information redacted. Petitioner contemplates filing this document along with the Notice in response to information requested in the Notice. Petitioner also identified Ind. Code 5-14-3-4(a)(5) as the applicable statutory provision in support of a finding of confidentiality.

Ind. Code 5-14-3-4(a)(5) provides that the following shall be excepted from public disclosure: "Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute." The Commission has discussed the applicability of this particular exception to public disclosure in several Orders, including the June 26, 2003 Order in Consolidated Cause Nos. 42427, *et al.*, and the January 26, 2005 Order in Consolidated Cause Nos. 42626, *et al.* Consistent with those previous Orders, it is determined that no Indiana statute specifically requires the submission of the financial information for which confidential treatment is sought in this Cause and, therefore, Ind. Code 5-14-3-4(a)(5) is applicable to the requested financial information at issue.

However, the *Verified Petition* contains no information describing the efforts Petitioner has made to maintain the confidentiality of the information, as required in 170 IAC 1-1.1-4(b)(3). While it might be a reasonable assumption that Petitioner has made efforts to maintain the confidentiality of the information for which it seeks confidential treatment, Petitioner is clearly required to describe those efforts to the Commission in its sworn statement.

In an effort to limit any administrative burden on Petitioner, and at the same time ensure compliance with the Commission's legal requirements, the Presiding Officer finds and concludes as follows: Information found in Petitioner's *Verified Petition* satisfies the requirements in 170 IAC 1-1.1-4(b)(1) and 4(b)(2). Upon satisfaction of the requirement found in 170 IAC 1-1.1-4(b)(3), a determination of confidentiality should be made with respect to the financial information relevant to Petitioner's credit facility transaction. Unless Petitioner is unable to satisfy the requirement found in 170 IAC 1-1.1-4(b)(3), Petitioner should, within fifteen (15) days of the date of this Entry, supplement its *Verified Petition* by filing a sworn statement for the purpose of satisfying the requirement found in 170 IAC 1-1.1-4(b)(3).

Petitioner's supplement to its *Verified Petition* will be deemed satisfactory, and a determination of confidentiality made without further Entry or Order of the Commission, unless Petitioner is notified by the Commission, within seven (7) days of filing its supplemental information, that its *Verified Petition* is still deficient. If Petitioner is not notified by the Commission of a deficiency within seven (7) days of filing its supplement to the *Verified Petition*, Petitioner should submit to the Commission an unredacted version of the *Description of Transaction* document that was attached to the *Verified Petition*. This submission should be sent to the attention of Pam Taber in the Commission's Telecommunications Division and should be clearly marked as

confidential. The information in the *Description of Transaction* document that was redacted at the time the *Verified Petition* was filed will be handled and maintained as confidential in accordance with Ind. Code 5-14-3.

IT IS SO ORDERED.

William G. Divine
William G. Divine, Administrative Law Judge

9-30-05
Date